

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No.302 of 1990.

Date of decision : November 28, 1990.

Baleshwar Singh ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s.A.K.Misra,  
B.Nayak,  
D.Behura, Advocates.

For the respondents ... Mr.A.B.Mishra,  
Sr.Standing Counsel (Central)  
Mr.S.Biswal,  
Addl. Standing Counsel (Central)

C O R A M :

THE HONOURABLE MR. B.R.PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

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J U D G M E N T

B.R.PATEL, VICE-CHAIRMAN, Briefly stated, the facts are that the applicant who was posted to Balasore in February, 1986 was transferred vide orders dated 31.3.1990 to Bengdubi under the Chief Engineer, Siliguri Zone. The applicant has challenged this order of transfer on the ground that his children are still reading in Schools and colleges and to leave Balasore at this time will seriously affect the education of his children. Another ground taken by him is the illness of his wife who is under treatment of the Medical Officer at

*B.R. Patel*

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Balasore and the transfer would dislocate the treatment which may affect the health of his wife. The third ground taken by him is that he has already completed 7 years in North-East <sup>ern</sup> States which are hard tenure stations, and Balasore being a non-tenure station he should be allowed to continue there a little longer than the period prescribed for such stations.

2. The respondents have maintained in their counter affidavit that the transfer order was passed before the educational session started and in paragraph 5 of his representation itself the applicant has <sup>mentioned</sup> ~~stated~~ some stations in North-East region to which he could be posted. In view of this the respondents have contended in their counter affidavit that there is no cause to grant further time to the applicant <sup>to move from</sup> ~~at~~ Balasore.

3. We have heard Mr. Aswini Kumar Misra, learned counsel for the applicant and Mr. S. Biswal, learned Additional Standing Counsel (Central) for the respondents and perused the papers. Mr. Misra has reiterated the difficulties of the applicant and that the transfer at this time will cause hardship to the children's education and the treatment of the applicant's wife. He has also placed before us the instructions/guidelines regarding transfer of civilian subordinates of the MES- other than to tenure stations which forms Appendix 'A' to HQ. Eastern Command Engineers Branch letter No. 131306/1/389 dated 22.9.1984. Our attention was drawn particularly to paragraph 12 of these guidelines. This paragraph gives certain benefits to the Officers. One of the benefits given is that an Officer can

By *Aswini*

stay two years more in non-tenure station if he has already remained in such a station for two years or more. Mr. Biswal has strongly contested the claim of Mr. Misra on the ground that the benefit contemplated under paragraph 12 of the aforesaid guidelines is admissible only if the over-stayal is not for the personal reasons of the Officers. In other words, according to Mr. Biswal an officer will be allowed to overstay only in public interest.

4. After having heard counsel for both sides and going through the records we have come to the conclusion that transfer of Officers in mid educational session dislocates the education of the children. Now only 4/5 months remain in the current educational session to be over. In the interest of children's education and keeping in view the guidelines referred to above, we direct that the applicant should be allowed to remain at Balasore till the middle of May, 1991. The department will give the formal orders well intime to the applicant in order to enable him to make necessary arrangement.

5. The application is accordingly disposed of.  
No costs.

*M. S. Gupta*  
..... 28-11-90.  
Member (Judicial)

*M. S. Gupta* 28-11-90  
.....  
Vice-Chairman

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
November 28, 1990/Sarangit

